



MISSOURI CREDIT UNION ASSOCIATION

July 22, 2011

Jennifer J. Johnson  
Secretary, Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
[regcomments@federalreserve.gov](mailto:regcomments@federalreserve.gov)

**RE: Michael V. Beall, Esq., - "Ability-to-Repay" Mortgage Lending Rules  
Docket No. R 1417 and RIN No. 7100 AD 75**

Dear Secretary Johnson:

On behalf of Missouri's 139 credit unions, the Missouri Credit Union Association (MCUA) would like to comment on the proposed "Ability-to-Repay" Mortgage Lending Rules. Consumer access to mortgage credit is vital in our economy; and we feel it necessary to continue to provide a competitive and fair market for this industry. MCUA seeks modification, clarification, and guidance regarding the proposed rule in order to reduce the regulatory burden placed on the industry and to mitigate any unintended consequences.

**Qualified Mortgage Definition**

There are two proposed definitions of a "qualified mortgage": "Alternative 1" and "Alternative 2." We strongly urge the agency to choose "Alternative 1" because of the safe harbor provision. We seek clarification on how this safe harbor will apply in situations where loans may have less documentation, such as when a credit union relies upon account records for determining the "ability to repay." Please clarify how the safe harbor applies to a credit union when computing an ability-to-repay analysis on a loan that is not a "qualified mortgage."

We seek the elimination of waived closing costs from the definition of "prepayment penalties" because they can be recouped in the event of prepayment within a certain time frame after consummation to prevent abusive consumer practices to receive a free appraisal. If waived closing costs are included in the definition of "prepayment penalties" then the majority of financials will discontinue waiving closing costs, ultimately harming the end user consumer.

Of importance, we support the exclusion of bona fide third party charges not retained by the creditor from the definitions of "points and fees" for qualified mortgages.

The proposed definitions of "underserved" and "rural" are too restrictive. We urge the Board to adopt the same definition used by federal agencies such as the NCUA for consistency and clarity.

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**Safe Harbor Sought for Determining Ability to Repay**

Credit unions were not a driving factor in the recent mortgage crisis. MCUA supports a general ability to repay standard and believe it prudent to qualify an applicant based on the largest scheduled payment during the loan term. We urge the Board to exercise its authority to provide a safe harbor to creditors regarding a consumer's ability to repay based on a worse-case scenario approach.

**Circumvention and Evasion**

There are bona fide situations in which a consumer needs to take an immediate, full draw on a Home Equity Line of Credit in first position. We request clarification on the proposed prohibition to continue to permit such credit, which meets the credit needs of consumers in certain situations.

**Alternative Approaches for Limits on Points and Fees for Qualified Mortgages**

While the Federal Reserve may combine the two alternatives, the formula under Alternative 2 unnecessarily complicates matters. No matter the dollar amount of a mortgage, there are certain fixed costs regardless of the loan amount. As such, these fees in proportion to the loan amount will create higher ratios on lower loan amounts and lower percentages on higher dollar loan requests. If a cap is imposed, the results will restrict credit on lower loan amounts to consumers. Fee restrictions should not be imposed on lower loan amounts when appraisal and title search costs are fixed, regardless of the loan amount. Financial institutions should be permitted to compete as other businesses do in the marketplace.

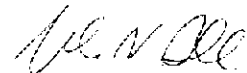
Regarding the mortgage loan transaction costs deemed as points and fees, the Board should only consider those fees and points "payable at or before closing." A lender has no methodology to include a fee that may be assessed at a later date due to unforeseen circumstances (e.g. fee to modify a loan after consummation.) Potentially this places an unlimited exposure upon financial institutions and the MCUA strongly opposes this item.

**Debt Obligations Nearly Paid and Debts in Forbearance or Deferral**

Please provide additional guidance/examples considering debt obligations with less than 12 installments and the corresponding consumer's debt ratio computation. Furthermore, please provide additional guidance on debt obligations currently in forbearance or deferral and how they should be considered in a consumer's debt ratio.

The MCUA appreciates the opportunity to comment and generally supports the proposed rule. However, we request the Board's consideration in the matters outlined above.

Sincerely,



Michael V. Beall, Esq.  
President/CEO